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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted pursuant to Commission resolution 1997/27

Addendum

Report on the mission of the Special Rapporteur to the Republic of Belarus
(28 May - 1 June 1997)

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Introduction

1. This report has been prepared pursuant to resolution 1997/27 of the Commission on Human Rights. It presents and analyses information received by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, during his visit to the Republic of Belarus from 28 May to 1 June 1997, as well as information received from individuals and non-governmental organizations concerning allegations of violations of the right to freedom of opinion and expression.

2. The Special Rapporteur would like to express his gratitude for the cooperation extended to him by the Government of the Republic of Belarus in discharging his mandate. He highly appreciates the assistance received from the Government in the organization of his visit. He would like to convey his gratitude especially to the Minister for Foreign Affairs and his staff who helped make this visit constructive and fruitful.

3. The Special Rapporteur would also like to express his appreciation to the Resident Representative and staff of the United Nations Development Programme in Minsk for their efficient organization of his visit.

4. During his visit, the Special Rapporteur met with representatives of the Government, members of parliament and the judiciary, and members of the 13th Supreme Soviet. He also met with non-governmental organizations that are active in the field of human rights, writers, press professionals, politicians, witnesses and victims of alleged human rights violations and other members of the civil society who were of interest for his mandate.

5. A list of persons with whom the Special Rapporteur met during his visit is contained in the annex to this report. It should be noted that this list is not exhaustive. The Special Rapporteur had the opportunity to meet with many other persons in the course of his visit. He would like to take this opportunity to thank those he met for their generous efforts to assist him during his visit to Belarus.

I. BACKGROUND AND CONTEXT

6. Since the break-up of the Soviet Union, Belarus has been undergoing profound political, economic and social change. The Belarus Supreme Soviet declared sovereignty on 27 July 1990, and Belarus became an independent State on 26 August 1991. A constitution was adopted on 15 March 1994, providing for the rule of law and political pluralism. However, the process of reform towards establishing a democratic system and a market economy has not been without difficulty, the economy and standards of living having had to endure serious strains. These pressures have been added to those caused by the Chernobyl accident which occurred in the spring of 1986, when an estimated 70 per cent of the radioactive fallout contaminated 23 per cent of its land area.

7. Presidential and parliamentary elections were held in 1994 and 1995, respectively. After the landslide election victory, in July 1994, of President Lukashenko, who continues to enjoy a strong base of support, the country has seen a decline in parliamentary power in tandem with a steady

strengthening of the executive branch. Rulings by the Constitutional Court pronouncing various presidential decrees unconstitutional were largely underplayed by the executive. The overall political situation in Belarus remains overshadowed by the controversies surrounding a referendum on amendments to the Constitution in November 1996, which had been preceded by a serious political crisis and has raised concerns with regard to its legitimacy as well as guarantees for the separation of power. In accordance with the new Constitution, the 13th Supreme Soviet was transformed into a bicameral parliament, with the House of Representatives having been selected from among members of the elected Supreme Soviet. In December, a number of parliamentarians who had objected to recognizing the results of the referendum formed a shadow Cabinet under the chairmanship of the speaker of the 13th Supreme Soviet, without however having a formal role in political life. Following the adoption of the new Constitution, several judges of the Constitutional Court, including its chairman, resigned, refusing to recognize and serve under the new Constitution. One member of the Constitutional Court was dismissed by presidential decree.

8. An important issue in Belarus has been the question of reintegration with Russia. In April 1996, a Confederation Treaty Establishing a Community of Sovereign Republics was signed, followed by a Treaty on the Union between Belarus and Russia, which was signed on 23 May 1997 and came into effect in June 1997. The treaty provides for closer cooperation, inter alia, in the political, economic, social and security spheres. Significantly, the Charter of Union of Belarus and Russia specifies as one of the Union's tasks in the political sphere the development of democracy within the Union, the observance and protection of the rights of the human being and citizen and basic freedoms in accordance with generally recognized principles and norms of international law. Article 13 notes that the powers of the Union and its bodies shall be directed towards ensuring the equality of citizens' political and socio-economic rights, with the main obligation of Union member States to, inter alia, ensure freedom of speech and freedom of the media, as well as to promote the observance of other rights of the human being and citizen and freedoms enshrined in international legal documents and national legislation. 1/

9. As regards the information sector, before the advent of perestroika, freedom of opinion and expression and information had been severely restricted, with the media having been conceived of as the main instrument of the State rather than as a free channel of information for the population or a mirror of major trends in public opinion. Freedoms of communication were envisaged as collective rights for the good of the State and society rather than as individual freedoms. Before independence, all main newspapers belonged to the Communist Party or its subsidiaries. In the context of the political changes, they were simply transferred to the relevant new ministries, thus remaining under the control of the State. While the early 1990s saw an overall improvement in the guarantee of the right to freedom of opinion and expression, and of human rights in general, there has been a lack of privatization in the media landscape, including printing and distribution. In fact, during his campaign, President Lukashenko had pledged, inter alia, to end the State monopoly on mass media, end political censorship and persecution of journalists for political reasons and allow independent distribution of information, thus acknowledging the problematic nature of State-controlled communication.

II. PRINCIPAL CONSIDERATIONS AND CONCERNS

A. Legal framework

1. International obligations

10. Belarus has accepted a wide range of international obligations in the field of human rights. It has ratified the International Covenant on Civil and Political Rights, including its first Optional Protocol.

11. In its capacity as a participating State of the Organization for Security and Cooperation in Europe (OSCE - previously Conference on Security and Cooperation in Europe, CSCE), Belarus accepted additional international commitments. These include the 1975 Helsinki Final Act, the 1990 Charter of Paris for a New Europe, the 1990 Copenhagen Document and the 1994 Budapest Document.

12. In March 1993, Belarus applied for membership in the Council of Europe. However, in January 1997, the Council of Europe Parliamentary Assembly suspended Belarus from special guest status as a response to the adoption of the amendments to the Constitution in November 1996 and the way in which the new legislature had come into being, which deprived it of its democratic legitimacy.

2. National legislation

13. In this section, the Special Rapporteur will briefly consider some aspects of the national legal framework governing the protection of the right to freedom of opinion and expression in Belarus.

(a) The Constitution

14. On 15 March 1994, the Supreme Council of Belarus adopted a new constitution, establishing the Republic as a unitary, democratic State, based on the rule of law and designed to grant inalienable rights to all citizens. It contains an extensive enumeration of human rights guarantees, largely corresponding to the rights set forth in the international human rights conventions to which Belarus is a party.

15. The Constitution was amended by referendum on 24 November 1996, introducing several wide-ranging alterations as regards the system of government. The provisions of the articles pertaining to the promotion and protection of the right to freedom of opinion and expression have largely remained unchanged, with the exception of article 34 discussed below. Furthermore, a provision regarding the protection of the President's honour and dignity by the law was added (art. 79).

16. Article 33 of the Constitution guarantees everyone the freedom of thought and belief and their free expression, and stipulates that no one shall be forced to express one's beliefs or to deny them. Monopolization by the State, public associations or individual citizens is expressly prohibited, as is censorship. Furthermore, citizens of the Republic of Belarus are guaranteed the right to receive, store and disseminate complete, reliable and

timely information about the activities of State bodies and public associations. State organs, public associations and officials are obligated to give citizens free access to information pertaining to their rights and legitimate interests (art. 34). The November 1996 amendment to the Constitution introduced an additional paragraph 3 to article 34, which stipulates that "the use of information may be restricted with the purpose of safeguarding the honour, dignity, personal and family life of citizens and the full implementation of their rights". In this regard, the Special Rapporteur notes that the significance of this limitation clause lies above all in the way it is applied, and in this context would like to recall that the enjoyment of the right to information must remain the rule and that any restriction needs specific justification and must always remain the exception.

17. The protections afforded by the Constitution also include the entitlement of political parties and other public associations to the use of the State-owned media as determined by the rules established by law, stipulated in article 5. Furthermore, freedom of assembly is guaranteed in article 35, with the provision that law and order must not be disturbed and the rights of other citizens of the Republic of Belarus guaranteed. Freedom of association is guaranteed in article 36.

(b) The Law on the Press and Other Mass Media

18. Freedom of the press and other mass media is guaranteed in article 3, including the right to seek, obtain, use and spread information through the press and other mass media. It is further specified that citizens of Belarus have the right to freedom of expression of their thoughts, attitudes and beliefs. Censorship is expressly prohibited in article 4.

19. Limitations governing the use of the media are defined in article 5, which prohibits, inter alia, its use to call for usurpation of power, the change by force of the constitutional order, breach of the territorial integrity of the Republic, incitement to national, social, racial and religious intolerance or dissension, to propagate war and aggression, to diffuse pornography, to encroach on the morality, honour and dignity of citizens or to publish materials relating to inquiries that have not been completed. Article 40 specifies the responsibility of journalists for, inter alia, the presentation for publication of objective information. There are no specifications as to the criteria by which "objectivity" is to be measured.

20. The Special Rapporteur notes that the Law on the Press does not address the issue of concentration of ownership in the mass media. Article 16 sets out the procedures and conditions for the closure of press organs. It specifies, inter alia, that media can be stopped by a court decision on the grounds of multiple breaches of article 5 by the editorial staff during a period of one year following the issuing of a warning also for refusal to carry out a decision of the court to suspend activity. Warnings can be given in cases of violation of the Law on the Press by the founder, the registering body (the State Committee for the Press) or the Prosecutor.

21. All media in Belarus are required to register with the authorities as stipulated in article 9, which specifies, inter alia, that decisions on

registration must be taken by the authorities within a month after receipt of an application. Criteria for the refusal of registration are defined in article 13. Restrictions on the legal distribution of media are prohibited by article 25, and the right of editors not to disclose sources is protected by article 34 which, however, also provides for the disclosure by order of court. As regards international sources of information, the right of citizens to receive reports and materials from foreign media is guaranteed in article 44.

22. The Law on the Press and Other Mass Media was amended in June 1996. Additions made to the law include, inter alia, an obligation on the part of the National State Television and Radio Company to produce and broadcast programmes providing comprehensive coverage of, inter alia, addresses and declarations by the President, the Supreme Soviet, the Chairman of the Supreme Soviet, the Constitutional Court and the Cabinet of Ministers of the Republic of Belarus, at a time suitable for the viewers and listeners, but within 24 hours (art. 31 (1)).

(c) Other legislation with a direct impact on the exercise of the right to freedom of opinion and expression

23. Other national legislation relevant to the regime governing the right to freedom of opinion and expression includes article 7 of the Civil Code concerning defamation, providing that "upon decision of a court, the mass medium concerned and the officials or citizens responsible shall make compensation in the degree set by the court for moral (non-property) injury caused to a citizen as a result of the dissemination by the mass media of inaccurate information damaging to his honour, dignity or business reputation". Depending on the nature of the plaintiff's suit, the compensation may also be in non-monetary form. Furthermore, articles 128 and 129 of the Criminal Code provide for more severe penalties for slander and insult, respectively. Finally, article 188 of the Criminal Code prohibits, inter alia, the insulting of a representative of the authorities in connection with the execution of his/her duties and insulting a member of the militia or other individual in connection with their execution of official duties or public duty for keeping public order.

24. On 18 March 1997, the Council of Ministers of the Republic of Belarus passed Decision No. 218 on the Establishment of Prohibitions and Restrictions on the Transport of Items over the Customs Border of the Republic of Belarus, in order to "defend national security, to protect the rights and freedoms of individuals, the health and moral standing of the population, and to ensure protection of the environment". The decree prohibits the import and export of "printed and audio-visual material and other media containing information that may be harmful to the political or economic interests of the Republic, its State security, or the health and moral stature of its citizens".

25. On 5 March 1997, the President issued Decree No. 5 on Meetings, Rallies, Street Processions, Demonstrations and Picketing in the Republic of Belarus. The decree sets out the procedure for obtaining permission to organize such events, providing, inter alia, that organizers must give notification of the intention to that effect at least 15 days in advance. No preparation for the event is allowed until permission is obtained, including announcing the time or venue in the mass media or distributing leaflets, posters or other

materials. Furthermore, the demonstrations cannot be conducted, inter alia, in the vicinity of buildings comprising the official residence of the President of the Republic and the buildings of the National Assembly or the Council of Ministers of the Republic of Belarus, the television and the radio centre. Under article 9 the organizers or participants in an event may not, inter alia, "employ posters, banners or other devices carrying slogans urging the violent alteration of the constitutional order, promoting war or social, national, religious or racial enmity or disparaging the honour and dignity of officials and State organs or to employ flags or pennants that have not been registered according to the established procedure, or emblems, symbols or posters the content of which is aimed at disrupting the State system or public order or at damaging citizen's rights or lawful interests". The Security Council of the Republic of Belarus is the implementing body of the decree. Responsibility for drawing up protocols on violations of the decree lies with the police, and the authority to hear cases relating to offences lies with the courts. Offenders are liable to fines from 20 to 150 times the minimum wage or administrative arrest from 3 to 15 days. If repeated within a year or committed by the organizers, the fines amount to 150 to 300 times the minimum wage or administrative arrest from 10 to 50 days.

26. The Special Rapporteur was informed by the Government in a written submission that a bill on television and radio broadcasting is currently being drafted. Furthermore, the Special Rapporteur was informed that the current parliament is in the process of developing legislation on the establishment of an ombudsman institution. The Special Rapporteur welcomes these initiatives and encourages the Government to continue to seek the advice of international organizations in such endeavours. He would very much welcome being kept informed of these initiatives as they relate to the right to freedom of opinion and expression.

B. Principal observations and concerns

1. The media

27. The Special Rapporteur wishes to recall that media freedom is an essential component of freedom of expression and information and an indispensable element in the development of democracy, a stated goal of the Republic of Belarus. The Special Rapporteur wishes to recall that the transition from one system to another is a long and arduous path filled with obstacles. However, for the ultimate well-being of the people and the blossoming of society, this path needs to be pursued with diligence, transparency and courage, and the challenge will be met.

28. The Special Rapporteur was informed of a number of instances where doubt has been raised as to the readiness of the Government to provide for an environment where a free media can operate, develop and flourish. Numerous incidents were brought to the attention of the Special Rapporteur which indicate that the operating environment for a free press and media has become increasingly difficult. An issue about which the Special Rapporteur heard repeated criticism was the harassment of independent and opposition press and broadcasting media, as well as incidents of censorship and the denial of fair and objective coverage of opponents and critics in the State-controlled media, thus leaving little room for the expression or representation of opinions

other than those sanctioned by the executive branch. This has been particularly true during periods of elections or referenda, when the media assume a crucial role in providing fair and balanced information on the issues at stake and the views spanning the entire political spectrum. A variety of documentation has been brought to the attention of the Special Rapporteur regarding the media coverage of the election and referendum, which raises concern that the national media have failed to play this role.

29. The Special Rapporteur notes that indirect measures to prevent the expression of opinions and views deemed to be undesirable, such as the abuse of State control of publishing enterprises, printing presses, distribution services, broadcasting companies and monopolies, equally fall within the scope of protection of article 19 (2), and any interference arising from such indirect measures should be limited by those provisions set out in article 19 (3).

(a) The Print media

30. The Special Rapporteur received information regarding various developments as regards the institutional framework for the operation of independent print media which he feels warrant some in-depth consideration. He notes that an important element for the freedom of the print media is undoubtedly the market surrounding registration, printing and national distribution, all of which are currently under State control. The Special Rapporteur received numerous accounts of punitive administrative and financial measures against non-State media to prevent their free operation.

31. According to the State Committee on the Press, the registering body in Belarus, approximately 1,000 publications are registered in Belarus, up to 50 per cent of which are subsidized by the State and more than 800 of which are owned by private individuals or organizations. While this number indicates a lively press, the Special Rapporteur notes that there seems to be a wide gap between the number of registered newspapers and the number that actually appear; many have a very small circulation and are published only a few times per year. The Special Rapporteur received information from various sources noting that among the independent newspapers, only between four and six are distributed nationally, with a circulation of about 60,000 to 70,000, as opposed to the circulation of the main government paper of between 250,000 and 500,000. The impact of the non-Government-owned and -managed press thus seems to be extremely limited, given the fact that in addition to the lower circulation of independent or opposition newspapers, their cost is considerably higher and their distribution outside Minsk is very limited.

32. The Special Rapporteur has been informed that the issue of registration and re-registration, as well as the perceived risk of suspension and termination of publication, has taken on increased importance over the past two years. The State Committee on the Press is entrusted with registering the print media and is equally entitled to issue written warnings. Suspension or termination of mass media activity requires the decision of the founder or a decision of the court upon application from the registering authority or the Prosecutor. The Special Rapporteur notes that the practice of issuing warnings to the print media can lead to a suspension of its activities after an unspecified number of warnings, on the basis of a violation of wide-ranging

provisions. While the Special Rapporteur has received no information indicating that newspapers were prevented from registering or were closed down permanently, he notes the general climate of uncertainty due to these ambiguities in the law as well as the lack of independence on the part of the body entrusted with the registration of the press, which is also entitled to issue warnings. This uncertainty is said to deter journalists and editors from being critical, particularly in view of the fact that one or more warnings have been received by some newspapers.

33. For instance, the Special Rapporteur was informed by a journalist of Svaboda that the newspaper had been under threat of closure, as the paper had received several warnings for alleged violations of the Law on the Press. Similarly, Belaruskaya Delovaya Gazeta had received a warning for violation of article 5 of the Law on the Press for "divulging State secrets" after having published an article on the special armed forces under the President's command. The Special Rapporteur's attention was furthermore drawn to the financial implications of contesting such warnings in court, which are seen by professionals in the information sector as providing no reliable recourse.

34. In several discussions during his visit to Belarus, the Special Rapporteur was informed by non-governmental sources that a re-registration had been announced in March 1997 and that media organizations feared that registration could be prevented, delayed or denied. Similarly, the Special Rapporteur received information that the regulation on Certain Issues of State Information Policy, issued by President Lukashenko on 4 January 1996, provided for the possibility of organizing a re-registration of all periodicals published in Belarus and all private television and radio companies. The Special Rapporteur notes with concern the impact this climate of uncertainty has had on the free media and wishes to express his concern about it.

35. While noting that both the Constitution and the Law on the Press postulate the right to freedom of opinion and expression, the Special Rapporteur is concerned that the overall legal environment with respect to the media is marked by a certain degree of uncertainty due, on the one hand, to the lack of precision of certain provisions in the Law on the Press and, on the other hand, to the fact that the responsibility for overseeing the observance of this law lies with the State Committee on the Press, a governmental organ. The Special Rapporteur notes with concern its broad discretion to issue warnings to the press.

36. The Special Rapporteur is of the view that the threat of legal sanction and closure based on unclear procedural and substantive criteria undoubtedly inhibits freedom of expression and can only result in a still further lessening of the ability of the press to act as a watchdog of Government and impart information of public interest. Furthermore, the Special Rapporteur is concerned that the legal obligation on the part of journalists to provide "objective" information provides room for abuse due to the fact that the term is inherently subjective in definition.

37. A repeated criticism heard by the Special Rapporteur was the fact that most printing facilities are controlled by the State, the same being true for the system of distribution. This monopoly was alleged to have facilitated the

imposition by the Government of impediments to the operations of an independent press. The Special Rapporteur was informed that only a few private printing firms exist in Belarus, and these are not equipped to print newspapers. It was brought to his attention that a presidential decree issued in August 1994 transferred directly to the presidential administration authority over the administration of the State Printing House Belorusski Dom Petchati, which dominates the market and controls access by the independent press to newspaper production. He was further informed that since October 1995, printing facilities in other areas of the country have been notified that in order to conduct business with non-State press, the agreement of the head of the Management of Social and Political Information Section of the presidential administration and of the State Committee for the Press was required. While being more expensive than the State Printing House in Minsk, it is possible to print newspapers in those facilities but at a higher cost and with certain inconveniences. The Special Rapporteur wishes to draw attention to the current economic environment in the country and the absence of appropriate alternative enterprises. He is concerned about the increased dependency of the media on the State which could impose serious limitations on its independent operation.

38. For instance, the Special Rapporteur received information from multiple sources in the information and non-governmental sectors documenting the abrupt termination of the printing contracts of three independent publications. In October 1995, Narodnaya Volia, saw its printing contract with the State Printing House Belorusski Dom Petchati in Minsk cancelled, reportedly for violating the Law on the Press. The same month, the State-owned printing house in Gomel terminated its contracts with Beloruskaya Delovaya Gazeta and Imya, reportedly for technical maintenance work.

39. The Special Rapporteur was furthermore informed by sources that in the absence of adequate alternative facilities in Belarus, a number of independent newspapers were forced to move and are currently printing in neighbouring Lithuania. The Special Rapporteur notes the Government's view that the printing of newspapers in Vilnius, Lithuania, has occurred as a response to normal market conditions. The Special Rapporteur considers this to be not very convincing: even if the actual cost were lower, given additional costs such as import taxes and transportation costs, as well as the loss of time, the printing of a daily newspaper abroad is close to impossible. Indeed, the Special Rapporteur has received no reports of a transfer of printing operations to Lithuania merely for cost considerations.

40. Furthermore, the decree of the Council of Ministers of 18 March 1997 regarding the establishment of prohibitions and restrictions on the transport of items over the customs border of Belarus, and its provisions regarding the import and export of certain printed and audio-visual material as specified in paragraph 24 above, is a further impediment to printing in Lithuania. While at the time of the visit of the Special Rapporteur there had reportedly been no confiscations under this provision, the fact that it remains in the realm of the possible, and that it is not clearly predictable what type of information would prompt confiscation, seriously limits the freedom of the press to write freely and constitutes a restriction on the free flow of information regardless of frontiers, guaranteed by article 19 of the International Covenant on Civil and Political Rights.

41. The Special Rapporteur was also informed that independent and opposition newspapers were confronted with problems with the distribution of their papers. The distribution system is also State controlled, including the Soyouzpetchat organization (the former Soviet press distributor) as well as the Minskaia Potchta (postal service), which has reportedly prevented the delivery of newspapers.

42. In addition, the Special Rapporteur's attention was drawn to other economic pressures imposed on independent newspapers. For instance, he was informed about tax audits conducted in August and September 1996 which affected an unusually high number of independent or opposition weekly newspapers. Following reportedly unusual methods of calculation, such as levying taxes on issues given out free, several of the audited newspapers received fines ranging from $42,000 to $118,000 and were subjected to a temporary freeze of their bank accounts. Finally, the Special Rapporteur's attention was drawn to the occurrence of arbitrary evictions from rented premises, as well as sudden rent hikes.

43. The Special Rapporteur notes the difficult economic conditions of Belarus and the slow progress of economic reforms which are not generally favourable to the development of an independent press, not least due to the absence of a profitable advertising market as a source of revenue for the independent press. The Special Rapporteur was furthermore informed on several occasions that a variety of factors caused additional difficulties in attracting advertisers, including small print runs, official discouragement and pressure on companies advertising in the independent papers, as well as uncertainty of publication due to economic constraints and threats of closure, the last also eliminating the possibility of subscription.

44. The Special Rapporteur considers that the measures with regard to printing and distribution place an undue additional strain on the independent print media industry. He would like to emphasize that the right to freedom of expression may not be restricted by indirect methods or means such as the abuse of government control over printing facilities or distribution networks, or other means impeding the free communication and circulation of ideas and opinions regardless of frontiers.

45. As regards the government press, several issues warrant attention. The Special Rapporteur notes that the main newspapers are Government-owned and all the editors of these newspapers are appointed by government officials, which raises serious questions about editorial independence. The Special Rapporteur has received information concerning direct interference in and censorship of the content of printed material. For instance, according to information received by the Special Rapporteur, in late December 1994, following a speech by an opposition deputy of the Supreme Soviet allegedly containing charges of corruption against high-level officials in the President's administration, the State Printing House was ordered not to print the speech. Sovieteskaya Byelorussia and Zvyazda and Respublika thus appeared with two blank spaces where the speech was intended to appear. Narodnaya Gazeta did not appear at all that day. The subsequent dismissal of the editors-in-chief of Sovietskaya Byelorussia and the daily Respublika is said to have been based on the incident.

46. Furthermore, the Special Rapporteur's attention was drawn to the situation of the parliamentary paper Narodnaya Gazeta. Established in 1990 by the Supreme Soviet, this daily paper, covering social and political information currently has a circulation of about 260,000, down from 600,000. Appointed by the Supreme Soviet on 17 March 1995, its editor-in-chief was dismissed by the President by the Presidential Decree "on Separate Contraventions of Legislation in the Activities of the Mass Media", for having published material which "calls for violence and civil disobedience" in the column "Letter to the President" of 10 March 1995. The Special Rapporteur notes that the right to appoint and dismiss the editor of Narodnaya Gazeta was vested in the Supreme Soviet. In March 1996, Narodnaya Gazeta again saw its editor dismissed by the President, reportedly due to a "failure to carry out his duties". It is widely assumed that the dismissal was prompted by his critical articles regarding the Belarus-Russia union. In June 1996 Narodnaya Gazeta was reorganized by presidential decree into a joint-stock company, with the Government holding the controlling shares, by decree No. 233 of 28 June 1996, which was declared unconstitutional by the Constitutional Court as it amounted to an intrusion on the legislative branch by the executive; however, the Court's decision was not implemented. The Special Rapporteur notes, however, the current editor's conviction that the newspaper has complete editorial independence.

47. The Special Rapporteur was further informed that the situation of the media is more serious in the provinces. While the Special Rapporteur, due to the limited time available, was not in a position to travel to provincial towns, he was able to meet in Minsk with several representatives of independent organizations and publications based in the provinces. The regulation on certain issues of State information policy of January 1996, mentioned above, in addition to specifications regarding registration, placed the regional and district press under the direct control of the local political administration, with local executive committees being empowered to approve editors-in-chief who themselves become members of the committees.

(b) The broadcast media

48. The transition process has also posed a number of challenges, not atypical to countries in transition, in the area of broadcasting with the State-owned television and radio company simply having been transferred to the new power structures. The Special Rapporteur received information on a number of issues related to the broadcast media, ranging from monopolization, biased coverage and denial of access to opposition views, to the closing down of an independent radio station.

49. The Government informed the Special Rapporteur that broadcasting on the national level includes one domestic and several Russian channels, with ORT, the Russian public television channel, reaching approximately 96 per cent of the territory of Belarus. Radio broadcasting includes two domestic and three Russian radio stations. In addition, each region possesses its own broadcasting structure, including private radio and television companies. However, the Special Rapporteur was informed by NGOs that while independent broadcasters are operating, they have no national coverage and do not include programming on political issues.

50. As regards the operational framework for broadcasting, the National State Television and Radio Company operates, following the Decree on the Establishment of the National State Tele-Radio Company of the Republic of Belarus of August 1994, under the supervision of the President of the Republic. A presidential Decree of 28 September 1994, provided that the National State Television and Radio Company was an organ of the mass media and, at the same time, a regulatory body of the State with control over television and radio broadcasting. The decree was ruled unconstitutional for violating article 33 of the Constitution which prohibits monopolization of the mass media by State and public organizations or private individuals.

51. The Special Rapporteur was informed by the Chairman of the National State Television and Radio Company that prior to 1995, the responsibility for granting licences to private companies was in the domain of the Company. Following the decision concerning the prohibition of monopoly and in view of the need for a democratic basis for broadcasting, the authority for licensing was transferred to a commission on frequencies, which includes representatives of parliament and the presidential administration, the national State Television and Radio Company, the Ministry of Communication, and trade unions. Authority for the allocation of frequencies continues to be with the Ministry of Communications, an acknowledged difficulty which the Government envisages solving by setting up a national committee for the distribution of radio and television frequencies, following the model used in Ukraine.

52. The main concern expressed to the Special Rapporteur was the Government's tight control of national State radio and television, overwhelming bias in favour of the Government, and the use of broadcast information to propagate the policies of the Government, censor criticism of the Government, and limit and intentionally distort information on dissenting and opposition views. In this context, the Special Rapporteur was further informed that members of the opposition or individuals with differing views were refused access to State television and, on the whole, State television failed to provide complete and reliable information on matters of public interest.

53. While the Government rejected the view that it holds a monopoly over the national media, it acknowledged that the presence of only one national broadcasting channel is abnormal and a project is thus being elaborated for the establishment of a second national channel, which will broadcast the best programmes of regional television studios. The Special Rapporteur was informed that a number of non-governmental sources fear that the planned second channel will block some of the frequencies of ORT Russian Public Television. The Special Rapporteur observes that in his view, the importance of broadcasting policy lies in its independence and how well it serves the public interest rather than in the number of channels.

54. As regards the non-State broadcasting sector, no private television or radio station has nationwide coverage and the content is generally non-political. The Government exercises direct control over the granting of frequencies through the Ministry of Communication.

55. In this regard, the Special Rapporteur was informed that in August 1996, Radio 101.2 FM, the only private radio station broadcasting in Belarusian and

broadcasting independent news, which had been operating since July 1995, was ordered to stop immediately using the 101.2 frequency, because the authorities said that its transmitter was interfering with government communications. However, while the technical problems have allegedly been solved, the radio remains suspended. It is claimed by Radio 101.2 that the suspension order is linked to its decision made earlier that month to give airtime to the Chair of the Supreme Soviet, who had been unable to obtain access to State television.

56. The important role played by Russian television in Belarus is generally acknowledged by all sides. The two State-owned Russian television channels ORT and RTR can be received in almost all of Belarus: ORT in 96 per cent and RTR in 94 per cent of the territory. The private television station NTV can be received in Minsk and some other locations. The Special Rapporteur was informed by the Government that the four Russian channels available in Belarus have a higher level of quality than national television. Moreover, in some regions, Polish and Lithuanian television channels are also available.

57. The Special Rapporteur is concerned that government control over the transmission facilities used by the Russian television channels in Belarus provides the practical means for the Government to prevent the broadcasting of any material by those media that is not formally subject to the Government's direct control, thus providing for the possibility of prior censorship. For example, the Special Rapporteur was informed of an incident where a transmission was blocked in March 1997 and a team from that station was prevented from taking film across the border to Russia.

58. In addition, the Special Rapporteur received information regarding incidents of alleged harassment and marginalization of individual Russian journalists. For instance, Alexander Stupnikov, correspondent and director of the Minsk office of the Russian television company NTV, had his accreditation withdrawn on charges of allegedly deliberately filing false reports characterized by biased coverage, thus contributing to the misinformation of the Russian public. He was subsequently expelled from Belarus.

(c) Election and referendum coverage

59. The Special Rapporteur received information that raises serious doubts as to whether the coverage of important political events, such as elections or referenda requiring that the citizenry be informed to the best possible extent, is sufficiently balanced. Privileged coverage had been observed with regard to the presidential as well as the parliamentary election. Concerning the latter, the President issued a decree at the beginning of April 1995, banning the national media from covering the campaign and specifying that candidates would only be allowed to use the local media in their constituencies. These restrictions reportedly led to a serious lack of information about candidates and to the critical absence of political debate.

60. The Special Rapporteur was informed by several non-governmental sources that the coverage of the elections was seriously unbalanced, both in terms of quantity and quality. Similar, if not more serious constraints were experienced by the media during the period leading up to the referendum regarding amendments to the Constitution in 1996. According to the

information received by the Special Rapporteur, the television coverage surrounding the referendum was clearly biased in favour of the President's proposal. Furthermore, the practice of denying access to the opposition was particularly evident during this time. While the problematic nature of such practice was categorically denied by the Government, which was of the view that coverage should reflect the proportional support among the population, thus justifying a 90 per cent coverage in favour of the President, the Special Rapporteur is concerned that national broadcasting policy must be guided by the principle that airtime should be allocated on a fair and non-discriminatory basis. Furthermore, the Special Rapporteur finds the defence offered by the authorities that Russian television coverage was equally biased against the President does not make a convincing case.

61. In addition, while it cannot be denied that opposing views have received extensive coverage in alternative media, particularly Russian television, the Special Rapporteur wishes to emphasize the provisions in the amendment to the Law on the Press of June 1996 concerning coverage of daily news events and access of the opposition to airtime. The Special Rapporteur deplores the fact that the practice of biased coverage, which has been of long standing in Belarus and was evident also in the presidential elections, continues and has been aggravated since the presidential elections.

62. The Special Rapporteur is equally concerned about information he received concerning severe restrictions on the free flow of information before the referendum, with pervasive government control of the media resulting in a deprivation of the population of the views of the opposition, including members of Parliament and the Constitutional Court, as well as the extremely limited availability of the parliamentary draft proposal as it was not published at State expense. The Special Rapporteur was further informed that the presidential draft was printed in a special free issue of Sovietskaya Byelorussia at public expense and distributed in the letterbox of each voter. Furthermore, he received credible reports concerning a distorted presentation of the views of the opposition during this period. 2/

(d) Harassment and violence against individual journalists

63. The Special Rapporteur was informed of certain incidents of direct harassment and violence against individual journalists, including personal attacks, intimidation, as well as maltreatment during demonstrations despite their being in possession of their press cards. Reports have also been received concerning the confiscation of video and film material. For instance, the Special Rapporteur was informed of the arrest, following a demonstration on 14 March 1997, of several journalists subsequently brought to court on public order charges. The journalists were reported to have been present at the demonstration in the line of duty and clearly identifiable as journalists. The Special Rapporteur is concerned at restrictions of this nature imposed on journalists in fulfilling their professional duty. He is concerned that such measures indicate an attempt to intimidate journalists in the exercise of their profession in order to limit independent coverage of such demonstrations.

64. The Special Rapporteur notes with concern a growing polarization of the community of journalists along political lines. This is considered to be

partially a result of the violence used against journalists who are said to become supporters of the opposition only after having been harassed and attacked, usually in connection with their coverage of demonstrations.

65. Furthermore, Russian journalists or journalists working for Russian television have come under increasing attack. For instance, as mentioned earlier, Alexander Stupnikov, correspondent and director of the Minsk office of the Russian television company NTV, had his accreditation withdrawn and was expelled in late March 1997 for allegedly biased coverage.

66. The Special Rapporteur furthermore notes with concern the Government's view that foreign news organizations should not employ Belarusian journalists; rather, they should employ their own nationals as the employment of Belarusian citizens would create a salary imbalance vis-à-vis journalists employed by Belarusian media. However, the Special Rapporteur is of the view that such restrictions are an undue limitation on the rights of Belarusian journalists.

2. Other concerns relevant to the promotion and respect for the right to freedom of opinion and expression

(a) Writers

67. The Special Rapporteur received information from a source concerning a poet and journalist, Slavomir Genrikhovich Adamovich, arrested in April 1996 and charged with "dissemination of material containing public incitements to a terrorist act, an illegal attempt to cross the State border of Belarus, and possession of an offensive weapon without proper authorization" after having published a poem entitled "To kill a president". According to this information, following a hearing of the case in February 1997, Mr. Adamovich was released from custody on a written undertaking not to leave Minsk. Reportedly, a literary examination determined the poem to be a work of art.

68. The Special Rapporteur received information from the Government concerning this case, stating that criminal proceedings had begun on 14 February 1996 in response to indications of a crime having been committed under articles 17 (5) and 63 of the Penal Code after a poem entitled "Kill a President" had been published by an unregistered organization called Pravy Revansh (Right Revenge) in a leaflet entitled Lukashenskaya Pravda No. 3 (3), 1996, disseminated in Minsk. It was subsequently established that Mr. Adamovich had written, duplicated and distributed copies of a poem entitled "Kill a President" which "publicly called for the most senior public official in the Republic of Belarus to be killed in connection with his State functions". On 4 April 1996, after having given a written undertaking on 2 April not to leave the area he attempted to cross the border into Lithuania. On 7 June 1996, he was charged with a crime under articles 67 (1), 15 (2), 80 (1), and 213 (3) of the Penal Code for the "dissemination of material containing public incitements to a terrorist act, an illegal attempt to cross the State border of Belarus, and possession of an offensive weapon without proper authorization". The case was transferred to the Supreme Court of the Republic of Belarus for judicial examination in July 1996. At the time of submission, the case was under investigation at the Vitebsk regional court.

69. The Special Rapporteur invites the Government to keep him informed of further developments in this case. As regards the overall situation of writers and poets, the Special Rapporteur heard complaints regarding indirect censorship through the control by the Government of the list of forthcoming publications.

(b) Demonstrations

70. A number of non-governmental organizations communicated information to the Special Rapporteur on incidents related to demonstrations, mainly during the months of March and April 1997, as well as in April 1996. The Special Rapporteur emphasizes again that, in view of his mandate, he does not wish to address questions relating uniquely or mainly to freedom of assembly. Yet, in view of the fact that the right to freedom of assembly is intrinsically intertwined with the right to freedom of expression, he would like to offer some observations on matters related to demonstrations.

71. The Special Rapporteur notes his concern about the restrictions imposed on the conduct of meetings, rallies, street processions, demonstrations and picketing by Decree No. 5. He notes that some provisions, such as those provided for in its article 9, provide ample opportunity for interference with the right to freedom of assembly as well as freedom of expression by the authorities. As public gatherings are considered by individuals and groups as the last remaining alternative means to express publicly differing views and opinions, given the denial of access to Government-controlled media and the harassment of the independent press, the direct and indirect limitations presently imposed on such events must be considered highly undesirable. The Special Rapporteur is of the view that this decree in practice prevents the full enjoyment of the right to freedom of assembly, which is intimately linked to, and thus impedes, the full enjoyment of the right to freedom of opinion and expression.

72. The Special Rapporteur is therefore deeply concerned at the restrictions imposed by the authorities on demonstrations as well as at the use of disproportionate violence by the police during demonstrations and their reported provocation of violence. The Special Rapporteur welcomes the acknowledgment of the existence of these problems by the authorities of the Ministry of the Interior, who nevertheless insist that intervention by the police is restricted to cases of a spill over into disorder or if the agreement regarding the particular event is violated, as well as minimize the problems related to arrests and court procedures and the harassment and beating of journalists. The Special Rapporteur welcomes the expressed readiness on the part of the authorities to initiate training activities for police.

(c) Civil Society

73. With regard to civil society as a whole, the Special Rapporteur notes that non-governmental organizations are in a generally weak position and new initiatives cannot benefit from such a situation. Furthermore, the Special Rapporteur was informed on several occasions of the recent difficulties confronting non-governmental organizations, which could lead to the conclusion that the Government is increasingly suspicious of activities initiated outside

the formal government structure. Incidents brought to the attention of the Special Rapporteur include administrative harassment such as re-registration procedures and tax audits with the imposition of substantial fines threatening the financial viability of such organizations.

74. In this context, the Special Rapporteur also observes that the activities of the Belarusian Soros Foundation, which supported a wide range of projects in education, culture, the environment and the independent media, have been suspended after having been fined US$ 3 million for alleged violations relating to its tax-exempt status as well as of a government decree regarding currency exchange. This is expected to have a substantial impact on civil society, as many independent projects, including the independent press, have received financial assistance from this foundation. It is imperative that a more pragmatic view be taken in such matters.

III. CONCLUDING OBSERVATIONS

75. The Special Rapporteur welcomes the expressed commitment of the Government of Belarus to democracy, the rule of law and human rights, in particular the right to freedom of opinion and expression. The measure of commitment to promote and protect human rights, however, is the way and extent to which statements and declarations are put into practice. The Special Rapporteur notes that Belarus is undergoing a difficult period of rapid political and socio-economic change, and is encountering many challenges similar to those confronting other countries in transition to democratic rule and a market economy. He observes that previous practices and attitudes are slow to change in many ways. The Special Rapporteur equally observes that concentration of power does not go well with the concept of freedom. The Special Rapporteur wishes to recall that democracy and the rule of law are essential for the fundamental well-being of Belarus. Therefore, actions that hamper this transformation should be strongly guarded against. He wishes to make a plea that an open and responsible system, which is essential for the good of the country and its people, will be guaranteed. In this context, the Special Rapporteur wishes to emphasize the crucial role of freedom of opinion and expression and information in giving substance to democratic development and respect for human rights.

76. The Special Rapporteur is concerned that while the constitutional provisions regarding the right to freedom of opinion and expression have been altered only by the amendment noted above in paragraph 16, the protection of this right as provided for in the International Covenant on Civil and Political Rights, to which the Republic of Belarus is a party, may nevertheless be affected significantly by other amendments to the Constitution resulting from the referendum in November 1996, specifically those concerning the separation of powers and the independence of the judiciary. This remains of particular concern to the Special Rapporteur, as the effectiveness of the substantive guarantees for the right to freedom of opinion and expression outlined in the Constitution largely depend on the implementing legislation and the remedies available to citizens whose rights have been violated.

77. The Special Rapporteur believes that a resolution of the current differences and an open dialogue with the opposition are essential steps in furthering the promotion and protection of human rights; he also wishes to

emphasize the important role of freedom of opinion and expression in this process. He notes that the present administration has acknowledged the existence of the problems surrounding the referendum and has repeatedly declared its commitment to engage in a dialogue with the opposition and to resolve the current constitutional crisis. The Special Rapporteur believes that the guarantee of the right to freedom of opinion and expression is an essential ingredient in reconciling the current polarization of society.

78. With regard to the legislative framework for guaranteeing the right to freedom of opinion and expression, the Special Rapporteur is concerned that while the right to freedom of opinion and expression, including the right to seek, receive and impart information, is formally guaranteed in the Constitution and the Law on the Press, certain provisions in the latter are ambiguous and based on an unduly broad view of the legitimacy of restrictions, so as to allow for impermissible infringements on the freedom of expression and the press. The Special Rapporteur finds that broad discretionary power is left to the authorities, for instance in issuing warnings, and he fears their arbitrary exercise, resulting in an inhibition on the necessary freedom of the press.

79. The Special Rapporteur was informed on several occasions of the efforts of the Government to bring the law into line with European and international standards. However, the information he has received fails to demonstrate a serious effort on the part of the Government to move in this direction. Specifically, recent developments, including the nature of several presidential decrees and the implementation of existing laws, government interference in the freedom of the media through monopolization and censorship of Government-controlled media, undue exercise of State control of the printing facilities and distribution system, harassment of professionals in the field of information, and severe restrictions imposed on demonstrations raise some doubt as to the commitment of the Government to guarantee the right to freedom of opinion and expression, including the right to seek, impart and receive information, and the full compliance of Belarus with its obligations under article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.

80. Freedom of the media has in practice been severely hindered by the exercise of economic pressures on independent or opposition publications, as well as the closing of private broadcasting stations. The Special Rapporteur considers the dependence of the mass media on the State through the State's monopoly on the technical means for the production and distribution of information to be highly undesirable. The Special Rapporteur would like to emphasize his view that the right to freedom of expression may not be restricted by indirect methods or means such as the unhealthy government practice of controlling printing facilities, radio broadcasting frequencies, equipment used in the dissemination of information, or other means impeding the free communication and circulation of ideas and opinions. The Special Rapporteur emphasizes once again that the most important functions of the media to inform, investigate, expose abuse and educate, of crucial importance to society, can only be fulfilled by media that are free from unnecessary constraints. The Government has an obligation to ensure conditions that enable the media to play this role and, in the case of the publicly funded media organs, to ensure complete editorial independence.

81. In this context, the Special Rapporteur considers it useful to refer to the view of the United Nations Human Rights Committee that "... in order to know the precise regime of freedom of expression in law and in practice, the Committee needs in addition [to the legal framework] pertinent information about the rule which either define the scope of freedom of expression or which set forth certain restrictions, as well as any other conditions which in practice affect the exercise of this right. It is the interplay between the principle of freedom of expression and such limitations and restrictions which determines the actual scope of the individual's right". 3/

82. The Special Rapporteur is particularly concerned at the government monopoly and control over the national radio and television broadcast system as well as the large-circulation daily newspapers, in particular the biased coverage of the opposition and the limited access of opposition politicians to State television, especially during elections and referenda or other important political events. In this context, the Special Rapporteur also notes his distress concerning the alleged obstacles to the Russian media which provides an alternative source of information to the Belarusian public. The Special Rapporteur observes that the Belarusian public's effective exercise of their right to receive complete and reliable information should not be limited and the population should not be prevented from having full access to a plurality of opinions and critical views. The Special Rapporteur is concerned at governmental measures to restrict the right of the population of Belarus to receive information and ideas of all kinds, regardless of frontiers.

83. In this context, the Special Rapporteur wishes to refer to article 19 of the International Covenant on Civil and Political Rights which states not only that citizens have the right to impart, but equally the right to seek and receive information of all kinds, regardless of frontiers. He wishes to re-emphasize that the right to receive information and ideas is not simply a reverse of the right to impart information, but is a separate freedom on its own. Indeed, the right to receive complete and reliable information and the free flow of information and ideas are among the most fundamental human rights and are indispensable ingredients of a functioning democracy. This is equally valid during the transition period that many countries of the former USSR are undergoing and is indeed reaffirmed in the Charter of Paris, which stipulates that the free flow of information and ideas are crucial for the maintenance and development of free societies and flourishing cultures. The free flow of information and exchange of ideas through the media and other public forums, including the public discussion of international human rights, is thus dispensable.

84. The Special Rapporteur furthermore notes that the decree on border controls imposes restrictions on the free flow of information which go beyond the realm of permissible restrictions as provided for by international standards. He considers that in view of the fact that several of the most influential independent or opposition newspapers are printed in neighbouring Lithuania, the issuing of this decree can be interpreted as intentional interference by the Government in the free flow of information in violation of article 19.

85. The Special Rapporteur wishes to express his concern that freedom of expression has also been impeded by restrictions on demonstrations as well as

on the activity of non-governmental organizations attempting to develop an independent civil society. The absence of a strong tradition in this regard makes support for those initiatives all the more important in order for a transition to a democratic system of governance to succeed.

86. Finally, the Special Rapporteur would like to re-emphasize that the promotion and protection of the right to freedom of opinion and expression cannot be seen in isolation. Rather, it can be described as an essential test right, and a deterioration in the freedom to express one's own opinions, particularly in cases where they do not reflect the mainstream, often provides an indicator of the deterioration of other human rights as well. Indeed, it is the respect for the right to express the "other view" which tests the general safeguard of the right by the State. The recommendations that follow are aimed at reinforcing and supporting the efforts of the Government of Belarus to translate its commitments in the area of freedom of expression into reality.

V. RECOMMENDATIONS

87. On the basis of the principal observations and concerns described in the previous sections, the Special Rapporteur would like to make the following recommendations. The Special Rapporteur recalls the constructive nature of the exchange of views with the Government during his visit and is confident that his recommendations will be received in a spirit of mutual commitment to strengthening the protection and promotion of the right to freedom of opinion and expression.

88. The Government is strongly encouraged to spare no efforts to bring to a resolution the divergence of views as regards the constitutional referendum of November 1996 to the satisfaction of all parties concerned, including through an open and frank dialogue with the opposition. The Special Rapporteur welcomes initiatives to improve the protection of human rights through measures such as the envisaged establishment of a national institution for human rights. He wishes to emphasize, however, that respect for democratic principles and the rule of law is an essential prerequisite for the enjoyment of human rights. The Special Rapporteur is of the view that the furthering of the right to freedom of opinion and expression and, in particular, the freedom of the media in accordance with international standards is an essential element in this endeavour.

89. The Government is strongly encouraged to ensure that the protections promulgated in the Constitution and the Law on the Press are always the rule and that any restrictions on the right to freedom of expression remain the exception, and bearing in mind that such restrictions must be limited to those permissible under article 19 of the International Covenant on Civil and Political Rights. To that end, the Special Rapporteur urges the Government to take all the necessary steps to remove any restrictions on the right to freedom of opinion and expression incompatible with article 19 of the Covenant. Furthermore, the Special Rapporteur urges the Government to ensure that any registration requirements regarding newspapers serve an administrative purpose only and are not used to impose restrictions on the media outside article 19.

90. The Special Rapporteur urges the Government to ensure that future legislation, as well as its implementation, are in compliance with article 19 and other relevant international standards. The Government is also encouraged to consider ways to ensure that the process of introducing future legislation that may affect freedom of expression and media freedom is transparent. The Government may also wish to consider ways of including media professionals in this process and to continue its cooperation with international organizations and to benefit from the advisory services.

91. As regards the flow of information across borders, the Special Rapporteur emphasizes that the decree (Decision No. 218) on the Establishment of Prohibitions and Restrictions on the Transport of Items over the Customs Border of the Republic of Belarus, specifically the provisions regarding information, presents serious obstacles to the free flow of information. The Government is strongly encouraged to bring the laws, regulations and practice governing border controls into line with the country's international obligations. The Special Rapporteur recalls that the right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and that any restrictions on the free flow of information should be strictly limited to such restrictions as stipulated in article 19 (3) of the International Covenant on Civil and Political Rights.

92. The Special Rapporteur urges the Government to take all necessary measures to alter any situation placing restrictions on the use by the independent media of State-owned printing and distribution services and to ensure that access to these facilities is accorded on a non-discriminatory basis, given the absence of realistic alternative facilities for newspaper printing and distribution as well as technical broadcasting facilities. The Government is further encouraged to consider taking steps to liberalize State control over these facilities.

93. The Special Rapporteur urges the Government to adopt positive measures as regards the electronic media in order to ensure that the public's right to receive complete and reliable information and a plurality of opinions is guaranteed. To that end, the Government is strongly encouraged to consider taking appropriate steps to develop a legal and institutional framework for public broadcasting to ensure that the State-financed broadcasting media can operate effectively as a public service broadcaster, with full guarantees of editorial and operational independence from Government and all other political influence on programming content. In this context, the Special Rapporteur recalls the need for accurate, balanced and impartial coverage of current affairs including, inter alia, by allocating air time to parties and candidates on a fair and non-discriminatory basis during the period preceding elections, referenda or other important political events when it is essential that voters and candidates alike engage in a free and open discussion of views on pertinent issues.

94. It would seem that through persistent efforts the legacy of the past can gradually be overcome and the transition from a State broadcasting system to a system of independent public broadcasting achieved. In this regard, the Special Rapporteur also recommends that the Government ensure that the public

service broadcaster gives consideration to such issues as the principles of democracy and universal human rights, and in particular the right to freedom of opinion and expression, in its programming.

95. The Government is strongly encouraged to refrain from taking measures which prevent or obstruct the establishment of independent radio and television and to provide positive incentives to encourage the establishment of such enterprises. The licensing system and the procedure for allocating frequencies should be governed by an independent body operating in accordance with international standards and practice and should provide for an effective process of appeal against refusal or withdrawal of licenses.

96. The Government is encouraged to take the above recommendations into account in drafting the bill on television and radio broadcasting. The Government furthermore may wish to consider ways to allow for the participation of journalists and other interested parties in the drafting process.

97. As regards individual journalists, the Special Rapporteur urges the Government to ensure that journalists are protected from harassment and that they are able to carry out their professional activities freely, including all matters of public interest, irrespective of whether or not they support the Government.

98. The Special Rapporteur encourages the Government to disseminate to the widest possible audience basic human rights instruments and information. It is also encouraged to initiate and organize training in international human rights standards and practice for various groups of professionals, including government officials, members of Parliament and the judiciary, particularly with regard to the right to freedom of opinion and expression, and to ensure that international standards are applied in the respective areas of competence. The Government may wish to consider benefiting from international expertise in this area in designing and conducting training programmes.

99. The Government is further urged to provide a facilitating environment for the establishment and operation of professional associations and non-governmental organizations. Professional associations in the media field should be encouraged to organize training programmes for professionals in the information sector, representing both the State-financed and the independent media and with the participation of internationally renowned media professionals, which should address ethical and professional standards of reporting as well as the rights and responsibilities of the media and the Government. Attention should also be paid to the role of the media as a channel through which the population can exercise its right to information.

100. Finally, the Government is encouraged to ensure that the law and practice governing public demonstrations are in compliance with international standards and to repeal provisions failing this test. It is also encouraged to further its efforts to provide appropriate training to all law enforcement officials involved in operations relating to demonstrations and to ensure that all such officials are competent to carry out their work in accordance with international standards.

Notes

1/ Charter of Union of Belarus and Russia (unofficial translation by the BBC).

2/ For an analysis of the media coverage preceding the referendum see: The European Institute for the Media, "Monitoring the media coverage of the Belarusian referendum in November 1996. Final Report". Düsseldorf, February 1997.

3/ General Comment 10, article 19, nineteenth session, 1983, para. 3.

Annex

PERSONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HIS VISIT

The Government of the Republic of Belarus

Ms. Nina N. Mazai, Deputy Minister for Foreign Affairs

Mr. Mikhail Khvostov, Deputy Minister for Foreign Affairs

Ms. Natalya Drozd, Director, Department of International Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

Mr. Ivan Pashkevich, Deputy Head of the Presidential Administration

Mr. Gennady Vorontsov, Minister of Justice

Mr. Victor Grigorievitch Golovanov, Deputy Minister of Justice

Mr. Yuri V. Tarabrin, Deputy Minister of the Interior

Mr. Oleg Bozhelko, General Procurator

Mr. Vladimir P. Zametalin, Chairman, State Committee for the Press

Mr. Grigory Kisel, Chairman of the National State Television and Radio Company

Mr. Yuri Kulakovski, Chairman, Committee for Human Rights and National Relations of the National Assembly

Mr. Gennady P. Alekseenko, Deputy Chairman, Committee for Human Rights and National Relations

Members of the 13th Supreme Soviet

Mr. Gennady Dmitrievich Karpenko, Deputy Chairman of the Supreme Soviet

Mr. Syamen Georgievich Sharetsky, Chairman of the Supreme Soviet

Professionals in the information sector

Mr. Iosif Seredich, Editor-in-chief, Narodnaya Volia

Mr. Yury Drakohrust, Journalist, Radio Free Europe/Radio Liberty

Ms. Zhanna Litvina, Journalist and President, Association of Independent Journalists

Mr. Oleg Guzdilovich, Journalist, Svaboda

Mr. Mikhail Shimansky, Editor-in-chief, Narodnaya Gazeta

Mr. Ivan Germianchuk, Editor-in-chief, Svaboda

Mr. Alexander Mikhalchuk, Deputy Editor-in-chief, Belorusskaya Gazeta

Editors of independent regional newspapers

Non-governmental organizations

Mr. Eugene Novikov, President, Belarus League for Human Rights

Ms. Tatsyna Pratsko, Belarus Helsinki Committee

Mr. Vasyl Bykov, President, Pen Centre

Mr. Carlos Sherman, Vice-President, Pen Centre

Mr. Ales Antipenko, Acting Executive Director, Soros Foundation, Belarus

Mr. Mikhail Kozlovsky, Acting Chairman of the Executive Board, Children of Chernobyl

Mr. Vladimir N. Makarchuk, Trade Union of Minsk Underground Railway Workers

Ms. Svetlana Uelskaya, Chairman, Belarusian Women Workers' Organization

Mr. Alexander Dobner, Independent Trade Union of Belarus

Other individuals

Mr. Michhail I. Pastukhov, former Judge, Constitutional Court

Mr. Yuri Khadyka, Vice-Chairman, Belarusian Popular Front

Mr. Vincuk Viachorka, Vice-Chairman, Belarusian Popular Front

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